IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 6904 OF 2005

Smt. Subhadra S. Kumar ...Applicant

Versus

Shri. Jayantilal H. Shah & Anr ...Respondents

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Mr. Shailesh Kantharia, Advocate for Applicant.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 21ST OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of the order issuing summons in Criminal Case No.3346/S/2002 which is pending in the Court of learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai. In the said case, summons has been issued against the applicant under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the applicant has an efficacious

remedy of preferring revision against the order of Magistrate issuing summons. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing summons.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Application is disposed of.

7. Office to issue an authenticated copy of this order to the parties.

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